IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 345 OF 2007

Shri Sanjay Ramesh Mehta ..Applicant
V/s
The State of Maharashtra ..Respondent

Ms. Vasanti Joshi, Advocate for the applicant

Mr. U.V. Nikam, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 5TH FEBRUARY, 2007.

P.C.

. Heard Ms. Vasanti Joshi, learned Counsel for the applicant and Mr. Nikam, learned APP for the State.

2. This is an application for anticipatory bail filed by the applicant for the offences punishable under Sections 379, 420, 467 and 468 of Indian Penal Code in Crime . No 214/2006 registered with Cuffe Parade Police Station. The applicant claims to be the businessman dealing in electronic goods at Bombay. According to him one Ajay Kashyap approached the applicant in October, 1998 and showed interest in purchase of certain

electronic goods. He handed over a demand draft of Rs. 60,070/- to the applicant and purchased goods for certain amounts. After adjustment of the price of the goods he received amount of Rs. 30,000/- from the present applicant and passed receipt. Again in the same month, said Kashyap approached the applicant for purchase of certain electronic goods contending that he required huge quantity of goods for opening a new shop and he handed over a demand draft of Rs. Ten Lacs to the applicant. The said demand draft remained with the applicant for long time, as Ajay Kashyap told the applicant that it will take some tome to make the shop ready. As said Kashyap did not turn upto November, 1999, the applicant encashed said demand draft and put the said amount in fixed deposit for a period of six months. According to him, from April 1999 to May 1999 said Kashyap had purchased various goods from him as per invoices but still huge amount was lying with the applicant. He explained all these facts in his income tax returns. In February, 2000, Bank of Baroda at Surat found that the demand draft of Rs.10/- was fraudulently altered to Rs. 10 lacs. Similarly earlier demand draft of Rs. 607/- was altered to Rs. 60,070/- and thus fraud was played. The Bank had approached the police

but the Bank did not pursue the matter as it wanted to take recourse to DRT. In view of the defence taken by the present applicant, the application filed by the Bank before the DRT came to be rejected. Even its appeal was dismissed by DRAT. According to the applicant, he issued a defamation notice to the Bank and thereafter, the bank filed a complaint before the concerned Magistrate at Mumbai. The learned Magistrate directed the police to investigate the offence under section 156(3) of Cr.P.C. and the above referred crime has been registered. The applicant apprehends arrest in the said offence and therefore, he seeks anticipatory bail.

3. In view of the facts stated above, it appears that for a period of about 6 t 8 years the bank was not willing to prosecute criminal case and wanted to recover the amount by filing original application in DRT. After having failed in that, in view of the defence of the applicant and after the notice of defamation was issued, the bank again took up the matter with criminal Court. Taking into consideration the lapse of about 8 years since the alleged offence was committed and the fact that the applicant is established businessman and he was defending action of the bank before DRT and other

authorities, there is no possibility that he would abscond or will not be available for investigation. Therefore, taking into consideration the circumstance, I am inclined to grant anticipatory bail to the applicant.

4. In view of the above circumstances, in the event of arrest of the applicant in Crime No.214/2006 of the Cuffe Parade Police Station, the applicant shall be released on bail of Rs. 25,000/- with a surety in like amount on conditions that he shall not tamper with the prosecution evidence and shall fully cooperate with the investigation. He shall make himself available to the police as and when required for the purposes of interrogation or investigation in the matter. In case charge-sheet is filed after investigation, the applicant shall appear before the competent Metropolitan Magistrate seeking regular bail in the offence.

(J.H. BHATIA, J.)